

DEBORAH T. PORITZ  
ATTORNEY GENERAL OF NEW JERSEY

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WITH THE  
N.J. BOARD OF DENTISTRY  
ON 10-3-94 cm

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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC  
SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY  
DOCKET NO.

In the Matter of the Suspension)  
or Revocation of the License of

Administrative Action

ROBERT KELLNER, D.M.D.

CONSENT ORDER

To Practice Dentistry in the  
State of New Jersey

This matter was opened to the New Jersey State Board of Dentistry upon receipt of Investigative Reports from the Enforcement Bureau, Division of Consumer Affairs, which disclosed that Robert Kellner, D.M.D, had prescribed over his own name and/or over the forged signature of another dentist, purchased under his own name, and personally used certain controlled dangerous substances for purposes unrelated to the practice of dentistry. It appears that respondent wishes to resolve this matter prior to the filing of an administrative complaint.

THEREFORE, IT IS ON THIS 28<sup>th</sup> DAY OF SEPTEMBER, 1994;


HEREBY ORDERED AND AGREED THAT:

1. Respondent's license to practice dentistry in the State of New Jersey shall be and hereby is suspended for a period

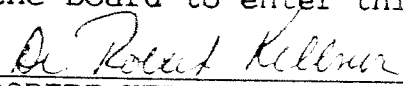
of five (5) years effective fourteen (14) days from the entry date of this Order. The first thirty (30) days of said suspension shall be active suspension, and the remaining period of suspension shall be stayed and shall constitute a probationary period so long as respondent complies with all of the other terms of the within Order.

2. Respondent's continued licensure shall be expressly contingent upon his participation in a chemical dependency monitoring program as more particularly set forth in the attachment to this Order and which is hereby made a part of the within Order as if set forth in its entirety.

3. Respondent may apply for modification of the terms and conditions of the within Order no sooner than one (1) year from the entry date of this Order.

  
STEPHEN CANDIO, D.D.S.  
PRESIDENT  
STATE BOARD OF DENTISTRY

I have read and understand  
the within Order and agree  
to be bound by its terms.  
Consent is hereby given to  
the Board to enter this Order.

  
ROBERT KELLNER, D.M.D.

ATTACHMENT TO ORDER  
CHEMICAL DEPENDENCY MONITORING PROGRAM

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1. Respondent shall enroll in the N.J.D.A. Chemical Dependency Program (C.D.P.) and shall comply with a monitoring program supervised by C.D.P. which shall include, at a minimum, the following conditions:

(a) Respondent shall have his urine monitored under the supervision of the C.D.P. on a random, unannounced basis, twice weekly. The urine monitoring shall be conducted with direct witnessing of the taking of the samples either from a volunteer or drug clinic staff as arranged and designated by the C.D.P. The initial drug screen shall utilize the EMIT technique and all confirming tests and/or secondary tests will be performed by gas chromatography/mass spectrometry (G.C./M.S.). Respondent expressly waives the right to raise the defense that a positive urine sample is not his urine or other chain of custody defense in consideration of the Board's waiving the requirement that the testing procedure utilize a forensic chain of custody protocol.

All test results shall be provided in the first instance directly to the C.D.P., and any positive result shall be reported immediately to the C.D.P. to the Executive Director of the Board, or a designee in the event the Director is unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in

order to guarantee the accuracy and reliability of the testing.

Any failure by the respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event the respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Dr. Frederick Rotgers or Dr. Barbara McCrady of the C.D.P. Neither the volunteer nor drug clinic staff shall be authorized to consent to waive a urine test. In addition, respondent must provide the C.D.P. with written substantiation of his inability to appear within two (2) days, e.g., a physician's report attesting that the respondent was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of the respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day. The C.D.P. shall advise the Board of every instance where a request has been made to waive a urine test together with the Program's determination in each such case.

In the event respondent will be out of state for any reason, C.D.P. must be so advised and arrangements must be made for a urine test prior to the resumption of dental practice upon return to the state.

Respondent shall be required to place a telephone call to Agnes Clarke, Director of the Board (or her designee), on the

Monday of any week when respondent has not been called by and/or has not in fact provided to the C.D.P. two urine samples during the immediately preceding seven days. Further, respondent shall advise Agnes Clarke immediately in the event respondent is notified by the C.D.P. that a urine test will not be made for a period of seven (7) days or longer for any reason whatsoever including, but not limited to, vacations, office closures or illness.

The Board may in its sole discretion modify the frequency of testing or method of reporting during the monitoring period.

(b) Respondent shall attend support groups including the impaired professionals group and AA/NA at a frequency of no less than three times per week. Respondent shall provide evidence of attendance at such groups directly to the C.D.P. on a form or in a manner as required by the Program. The C.D.P. shall advise the Board immediately in the event it receives information that respondent has discontinued attendance at any of the support groups.

2. The C.D.P. shall provide quarterly reports to the Board in regard to its monitoring of respondent's program as outlined herein including, but not limited to, the urine testing and the attendance at support groups. The Program shall attach to its quarterly reports any and all appropriate reports and/or documentation concerning any of the monitoring aspects of the within program.

3. Respondent shall engage in substance abuse counseling or individual psychological therapy as recommended by the C.D.P. at a frequency of one time per week. Respondent shall cause the

therapist to provide quarterly reports directly to the Board with respect to his attendance and progress in therapy. If such therapy includes the prescription of medication, the therapist shall also include information concerning the monitoring of the medication in the quarterly report.

4. Respondent shall not prescribe or dispense controlled dangerous substances nor shall he possess such substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause. Respondent shall immediately submit to the Board his federal D.E.A. and state C.D.S. registration certificates. Respondent shall cause any physician or dentist who prescribed medication which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than seven (7) days subsequent to the prescription in order to avoid any confusion which may be caused by a confirmed positive urine test as a result of such medication.

5. Respondent shall provide appropriate releases to any and all parties who have information concerning respondent's drug dependency within the last two years and/or who are participating in the monitoring program as outlined herein as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner.

6. At the Board's discretion, respondent shall submit to a psychological or psychiatric evaluation by a Board appointed consultant within six (6) months from the entry of this Order.


Respondent shall be responsible for the fee of the consultant for the evaluation and report.

7. All costs associated with the monitoring program as outlined herein shall be paid directly by the respondent.

8. It is expressly understood and agreed that continued licensure with restrictions as ordered herein is contingent upon strict compliance with all of the aforementioned conditions. Upon the Board's receipt of any information indicating that any term of the within Order has been violated in any manner whatsoever, including, but not limited to, a verbal report of a confirmed positive urine or any other evidence that respondent has used an addictive substance, a hearing shall be held on short notice before the Board or before its representative authorized to act on its behalf. The proofs at such a hearing shall be limited to evidence of the particular violation at issue. Any confirmed positive urine test shall be presumed valid, and respondent shall bear the burden of demonstrating its invalidity.

9. Respondent shall apply for modification of the terms and conditions of the within Order no soner than one (1) year from the entry date herein.

I have read and understand  
the terms and conditions  
of the Chemical Dependency  
Monitoring Program and agree  
to comply with and be bound  
by its terms.



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ROBERT KELLNER, D.M.D.